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COMMONWEALTH OF VIRGINIA

STATE CORPORATION COMMISSION

AT RICHMOND, FEBRUARY 5, 2003

APPLICATION OF

DUKE ENERGY WYTHE, LLC

CASE NO. PUE-2001-00721

For permission to construct  
and operate an electrical  
generating facility

**ORDER SUSPENDING RESPONSES  
TO THE HEARING EXAMINER'S REPORT**

On January 27, 2003, Hearing Examiner Michael D. Thomas issued his report in this case ("Report"). The Report finds, among other things, that there is insufficient evidence in the record on certain issues. Report at 76-77. The Examiner recommends that the State Corporation Commission ("Commission") enter an order: (1) adopting the findings in the Report; (2) denying the application herein; or in the alternative (3) remanding the case for further proceedings consistent with the findings in the Report. Report at 77. Pursuant to Rule 5 VAC 5-20-120 C of the Commission's Rules of Practice and Procedure, responses supporting or objecting to the Report must be filed within 21 days of the issuance of the Report. See also Report at 77.

On February 4, 2003, Duke Energy Wythe, LLC ("Company"), filed a Motion for Remand of Proceedings to Hearing Examiner ("Motion"). The Company asks that the Commission "enter an Order providing for: (1) Remand of this proceeding directing the Hearing Examiner to convene a conference of the parties for the purpose of more specifically identifying issues with respect to which he believes the current record to be insufficient and to establish a procedural schedule for the presentation of evidence;

and (2) Extension of the time for filing Comments on the January 27, 2003 Report of the Hearing Examiner until 21 days after filing by the Hearing Examiner of a supplemental Report at the conclusion of the procedure on remand." Motion at 3.

NOW THE COMMISSION, upon consideration of this matter, suspends the date for filing responses supporting or objecting to the Report, pending the Commission's ruling on the Motion.

Accordingly, IT IS ORDERED THAT:

(1) The date for filing responses supporting or objecting to the January 27, 2003, Hearing Examiner's Report is hereby suspended pending the Commission's ruling on the Company's Motion for Remand of Proceedings to Hearing Examiner.

(2) This matter is continued pending further order of the Commission.